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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,896	12/14/2001	Armin Rettig	FA-1047	6106

7590

05/04/2005

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Legal /Patent Records Center
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25/1128
Wilmington, DE 19805

EXAMINER

PARKER, FREDERICK JOHN

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,896

Applicant(s)

RETTIG ET AL

Examiner

Frederick J. Parker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-21, 23-29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-21, 23-29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

This issue was not addressed in Applicants' Response.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 10-21,23-29,31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujisawa et al in view of Sukejima et al.

The references are cited for the same reasons previously discussed, which are incorporated herein.

The Examiner has fully considered Applicants' amendments and thorough Remarks. The Examiner acknowledges that a primary argument is that Applicants claims recite "a powder coating composition" (e.g. Remarks Section, p.6, last paragraph; page 7, 5 and last paragraph, etc;), and stress the prior art's composition is "**NOT** a powder coating composition". In response, the Examiner refers back to Applicants' own specification, for example page 3, 25+: "It is pointed out that the powder coating compositions used for repair lacquering include aqueous preparations..., so-called aqueous powder coating slurries"; and page 6, 11-15 which stresses similar compositional characteristics. Applicants NEVER require, either by definition in the specification or in claims, the powder coating composition to be essentially dry or free-flowing as implied by the arguments. There is nothing in the claim language to exclude coating compositions comprising a powder that contains other constituents, such as polymer binder, liquid medium, etc., hence Applicants' arguments and analogy on page 7, top, are without merit. The powdery coating and powder-containing putty of the prior art are "powder coating compositions" as understood in light of the specification. Thus Applicants' argument is not

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convincing. The Examiner maintains the coating materials of the prior art are “powder coating compositions” which read on the claim language as read in light of the specification.

Applicants arguments regarding the use of a laser disavow the fact that laser is simply one embodiment for treating the coated defect areas, see at least Fujisawa et al, Col. 8, 48-65; col. 9, 27-37. Clearly infra-red energy is used for melting and curing, including the near-infra-red range. Fujisawa includes NIR in the useful range of IR wavelengths. It is the Examiner’s position that the prior art clearly envisions the utility of NIR for the same problem, and that optimization by routine experimentation by the skilled artisan for a given process would have been within the purview of one of ordinary skill, absent a clear and convincing showing of evidence to the contrary. The Examiner points out the primary reference recognizes the need for repair without causing detrimental deterioration (col. 2, 13-18).

Applicants arguments directed to claims 11-13,15-21,23-29,31-32 echo the arguments regarding claim 10, which the Examiner addressed above and will incorporate herein for brevity. Interestingly, Applicants then argue Fujisawa does not teach or suggest convection ovens or LWIR (synonymous with far IR, 20-1000 microns). Applicants are directed to col. 8, 45 to col. 9, 37 which one of ordinary skill would have understood to mean the various IR regions and heating are equivalent means for melting/ curing, and it is the Examiner’s position that the use of multiple equivalent means would have produced equivalent results, absent a clear and convincing showing of evidence to the contrary.

Col. 3 discloses polyester, epoxy, and other base (binder) resins and recognizes carboxyl containing and other compounds as curing agents, such that specific agents would have been

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known in the art, and readily available to, and within the purview of, the skilled artisan for specific polymers to be cross linked.

Applicants arguments are not convincing, and the rejections of all claims are maintained for the reasons in the previous Office Action, and as above.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

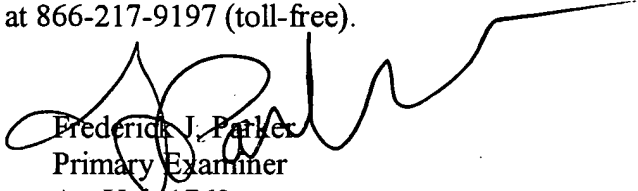
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick J. Parker whose telephone number is 571/ 272-1426. The examiner can normally be reached on Mon-Thur. 6:15am -3:45pm, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571/272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frederick J. Parker
Primary Examiner
Art Unit 1762

fjp